

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Constantinos Stivaros	Team: Team # 2	CCRB Case #: 201108578	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 07/03/2011 9:00 PM	Location of Incident: § 87(2)(b) and 77th Precinct Stationhouse	Precinct: 77	18 Mo. SOL 1/3/2013	EO SOL 1/3/2013	
Date/Time CV Reported Mon, 07/04/2011 3:32 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 07/04/2011 3:32 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. SGT Vitaliy Zelikov	01346	936353	PBBN
2. Officers			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Danny Aguilar	13811	941319	077 PCT
2. POM Raymond Kinckiner	28490	916003	077 PCT
3. SGT David Jones	02597	892418	077 PCT
4. POF Katrina Weekes	00210	949787	PBBN
5. POM Mohammed Manik	27262	948240	PBBN
6. POM Kevin Agro	08054	947964	PBBN
7. POM Jesse Colon	05088	948008	PBBN
8. POM Fady Azmy	01308	947976	PBBN
9. SGT Eric Alexis	01334	926489	PBBN

Officer(s)	Allegation	Investigator Recommendation
A.SGT Vitaliy Zelikov	Discourtesy: Sgt. Vitaliy Zelikov spoke obscenely and/or rudely to § 87(2)(b) and § 87(2)(b)	§ 87(2)(b)
B.SGT Vitaliy Zelikov	Abuse: Sgt. Vitaliy Zelikov threatened to arrest § 87(2)(b)	§ 87(2)(b)
C.SGT Vitaliy Zelikov	Force: Sgt. Vitaliy Zelikov used physical force against § 87(2)(b) and § 87(2)(b)	§ 87(2)(b)
D. Officers	Abuse: Officers did not process § 87(2)(b)'s complaint regarding an officer.	§ 87(2)(b)

### Case Summary

On July 5, 2011, § 87(2)(b) called the CCRB and filed a complaint on the Complaint Processing System. On July 3, 2011, at approximately 9:00 p.m., officers responded to § 87(2)(b) in Brooklyn in regard to a noise complaint and arrested § 87(2)(b) § 87(2)(b)'s husband, for fireworks. The following allegations resulted:

**Allegation A – Discourtesy: Sgt. Vitaliy Zelikov spoke obscenely and/or rudely to § 87(2)(b) and § 87(2)(b)**

§ 87(2)(g)

**Allegation B – Abuse of Authority: Sgt. Vitaliy Zelikov threatened to arrest § 87(2)(b)**

§ 87(2)(g)

**Allegation C – Force: Sgt. Vitaliy Zelikov used physical force against § 87(2)(b)**

and § 87(2)(b)

§ 87(2)(g)

**Allegation D – Abuse of Authority: Officers did not process § 87(2)(b)'s complaint regarding an officer.**

§ 87(2)(g)

### Results of Investigation

#### Civilian Statement(s)

**Complainant/Victim:** § 87(2)(b)

- § 87(2)(b) is a § 87(2)(b)-old black female, 5'5" tall, 175 lbs., with black hair and brown eyes. She is currently employed as § 87(2)(b).

On July 6, 2011, § 87(2)(b) provided a phone statement (encl. B4) On the same day, § 87(2)(b) appeared at the CCRB to be interviewed (encl. B5-9). § 87(2)(g) On July 3, 2011, § 87(2)(b) was at a family cookout at her mother's house at § 87(2)(b) in Brooklyn. The family was setting off fireworks and § 87(2)(b) is aware that fireworks are illegal. At approximately 9:00 p.m., § 87(2)(b) was with her husband, § 87(2)(b) at their GMC Yukon parked in the street in front of the house. The car belongs both to § 87(2)(b) and § 87(2)(b) They had the trunk open and were playing music out of the back of the car. § 87(2)(b) also had a box with a bag of sparklers in the trunk.

A marked police vehicle arrived at the scene. § 87(2)(b) believes a neighbor may have called the police because of the fireworks. Two officers, exited the vehicle and approached § 87(2)(b). These officers were identified via investigation as PO Danny Aguilar and PO Christopher Feely. The officers saw the sparklers in the car. They informed § 87(2)(b) that fireworks are illegal and brought him across the street and arrested him for the fireworks. PO Aguilar asked § 87(2)(b) if he could search the car but § 87(2)(b) refused. PO Aguilar then searched the trunk anyway and recovered the fireworks. He then went into the front seat of the vehicle and searched the seat area, opened the center console and glove compartment and searched them but did not recover anything. PO Feely was already sitting in the police vehicle with § 87(2)(b) at this point.

After the search, approximately ten marked police vans and ten marked patrol cars arrived on scene from both directions of the street. Twenty to thirty officers were now on scene. § 87(2)(b) was standing in the street in front of the car holding her § 87(2)(b) old child. Her sister, § 87(2)(b) who is § 87(2)(b) months pregnant, was standing next to her and was holding § 87(2)(b) s § 87(2)(b) old child. A third individual named § 87(2)(b) was also standing next to them. Due to all the lights and sirens, § 87(2)(b) s family came to the front yard and stood in the driveway and observed.

PO3 approached § 87(2)(b) and told her to go inside with her children so they do not see their father being taken away by the police. A sergeant identified via investigation from the badge number provided by § 87(2)(b) as Sgt. Vitaliy Zelikov approached § 87(2)(b) and § 87(2)(b) and told them to “get the fuck back” and “I am going to throw your ass in fucking jail” to § 87(2)(b). He then pushed § 87(2)(b) and § 87(2)(b) on their left shoulder with his right hand. § 87(2)(b) took two steps back from the force of the push. Neither § 87(2)(b) nor § 87(2)(b) fell or were injured from the push. § 87(2)(b) then questioned Sgt. Zelikov about pushing the two women. Sgt. Zelikov then pushed § 87(2)(b) in the center of his chest with the palm of his hand and § 87(2)(b) fell to the ground on his back.

No one interfered in the arrest of § 87(2)(b) and everyone was calm and not causing trouble. All the officers were calm except for Sgt. Zelikov. § 87(2)(b) then spotted an officer in a car who was wearing a white shirt and believed he was a captain. § 87(2)(b) approached the officer in the white shirt and told him what happened and he just acknowledged § 87(2)(b) s presence. All the officers then drove off and went back to the 77<sup>th</sup> Precinct Stationhouse. § 87(2)(b) and § 87(2)(b) followed them to the stationhouse.

When § 87(2)(b) arrived at the stationhouse, she went inside and spoke to a receptionist who called over PO5 to speak to her. She told PO5 what happened and he said he was not on scene and could not help them but would go get somebody to speak to them and that they should wait fifteen to twenty minutes. While she was waiting, she could see the officer in the white shirt and Sgt. Zelikov through the glass in the precinct sitting down with some of the other officers from the scene. An officer then came by and told her it might be a while until somebody could speak to her. PO Aguilar then came over and told § 87(2)(b) that he could not file a complaint against his sergeant and he could not help.

§ 87(2)(b) continued to wait and spoke to ten to fifteen officers that happened to walk by as she was waiting and told them what happened and if she could file a complaint. Every officer

went and spoke to Sgt. Zelikov and came back and told § 87(2)(b) that they could not do anything about the complaint.

PO6, identified via investigation as Sgt. David Jones then came out and asked what was going on. § 87(2)(b) explained that she wanted to file a complaint. He refused to give her a complaint form but told her to call 1-800-PleadPD to file a complaint. § 87(2)(b) wanted a complaint form filled out but Sgt. Jones refused to get one. Sgt. Jones then called over PO5 and had him escort § 87(2)(b) out of the precinct.

**Victim:** § 87(2)(b)

- § 87(2)(b) is a § 87(2)(b) old black male, 5'7" tall, 155 lbs., with black hair and brown eyes.

On July 6, 2011, § 87(2)(b) provided a phone statement (encl. B10). On July 14, 2011, § 87(2)(b) appeared at the CCRB to be interviewed (encl. B11-14). § 87(2)(g)

Sgt. Zelikov approached § 87(2)(b) and § 87(2)(b) who were standing in the street near the vehicle and told them to “get away from the car” and “get out of the street.” § 87(2)(b) told him that it was her car and she could stay near it. Sgt. Zelikov got in § 87(2)(b) and § 87(2)(b)'s faces and told them to back up and walked forward forcing them to take steps back. When § 87(2)(b) and § 87(2)(b) were almost at the curb, PO3 used three fingers to push § 87(2)(b) back. § 87(2)(b) asked Sgt. Zelikov why he pushed a woman. Sgt. Zelikov then chest-bumped § 87(2)(b)

Sgt. Zelikov was walking away at this point and § 87(2)(b) yelled out and asked him if he felt tough pushing women. Sgt. Zelikov turned around and walked quickly towards § 87(2)(b) and pushed him with both his hands. § 87(2)(b) lost his balance and stumbled backwards and braced himself on a short wall near the curb.

An officer with a white shirt then arrived at the scene and told PO Feeley and PO Aguilar that the car was not going to be taken away. All the officers then left the scene.

**Attempts to Contact Civilians**

§ 87(2)(b)

Between July 6, 2011 and August 4, 2011, seven calls were placed to § 87(2)(b) and voicemails were left on every call. Please call letters were also sent to her on July 12, 2011, July 25, 2011, and August 1, 2011. As of November 21, 2011, no letters have been returned by the USPS and a check of the Department of Corrections database revealed that § 87(2)(b) is not currently incarcerated.

§ 87(2)(b)

Between July 21, 2011 and August 4, 2011, six calls were placed to § 87(2)(b) and voicemails were left on every call except on July 25, 2011 when § 87(2)(b) picked up but stated she was busy and would call back. Please call letters were also sent to her on July 25, 2011 and August 1, 2011. As of November 21, 2011, no letters have

been returned by the USPS and a check of the Department of Corrections database revealed that § 87(2)(b) is not currently incarcerated.

§ 87(2)(b)

On July 25, 2011, § 87(2)(b) § 87(2)(b)'s father, was called and he provided § 87(2)(b)'s contact information and authorized the investigator to speak with his son. § 87(2)(b) also confirmed that neither he nor any other members of his family were witnesses to the incident. Between July 27, 2011 and August 8, 2011, five calls were placed to § 87(2)(b). On July 27, 2011, a voicemail was left and on August 1, 2011, a message was left with § 87(2)(b)'s brother. Messages could not be left on any of the other calls due to no messaging system being set up. Please call letters were also sent to him on August 1, 2011 and August 8, 2011. As of November 21, 2011, no letters have been returned by the USPS and a check of the Department of Corrections database revealed that § 87(2)(b) is not currently incarcerated.

### **Civilians Not Interviewed**

§ 87(2)(g)

§ 87(2)(g) He provided a phone statement on July 20, 2011 (encl. B15). § 87(2)(g)

### **NYPD Statement(s):**

#### **Witness Officer: PO DANNY AGUILAR**

- *PO Aguilar is a § 87(2)(b)-old Hispanic male, 6'3" tall, 215 lbs., with brown hair and brown eyes.*
- *PO Aguilar was patrolling sector IJ from 3:00 p.m. to 11:35 p.m. on July 3, 2011 with PO Feeley in uniform and in a marked vehicle.*

### **Memo Book**

At 9:16 p.m., PO Aguilar received a report of a possible crime of fireworks at § 87(2)(b). At 9:38 p.m., one was under at § 87(2)(b) for fireworks. At 9:47 p.m., he arrived at the stationhouse. On the fly page of his memo book, he had § 87(2)(b) sign for the property of the individual he arrested (encl. C11-14).

### **CCRB Testimony**

On August 11, 2011, PO Aguilar appeared at the CCRB to be interviewed (encl. C15-16). PO Aguilar received a call in regard to fireworks at § 87(2)(b) but received no further information. When he and his partner arrived on scene, a heavyset black male approximately 25-30-years-old, identified as § 87(2)(b) lighted fireworks near a three to five year old child. There were also three to four people on the sidewalk watching the fireworks. PO Aguilar observed this from 10 feet away while still in his car. As PO Aguilar and his partner exited their vehicle, § 87(2)(b) took the fireworks and put them in the trunk of his vehicle. The vehicle was a large SUV and the glass trunk hatch was open. No other doors were open. PO Aguilar approached § 87(2)(b) and the vehicle and spoke to him about the fireworks. He also took the fireworks out of the trunk. He did not search the trunk or take anything else out of the trunk. No officer ever went into the front of the vehicle, the glove compartment, center console, or front seats.

PO Aguilar then handcuffed § 87(2)(b) and brought him over to his marked vehicle. PO Feeley remained outside and did crowd control until backup arrived. PO Aguilar then called for a supervisor to come verify the arrest and for backup. A group of approximately 15-20 people had gathered on the sidewalk and were acting tumultuously by pushing towards the officers. Approximately seven to ten officers, including Sgt. Zelikov appeared in two to three marked vehicles approximately five minutes later. The officers conducted crowd control while Sgt. Zelikov verified the arrest. PO Aguilar did not hear any officers use profanity or use physical force with anybody. He could not see what the officers were doing with the crowd because he was 20-30 feet away in his vehicle.

After the crowd dispersed, Sgt. Zelikov verified the arrest and PO Aguilar went to the stationhouse. At the stationhouse while he was filling out arrest paperwork, he was informed by an officer that somebody was waiting for him. He went out, spoke to § 87(2)(b) and gave her the property of the individual he arrested. He then had her sign his memo book for the property. At no point did she ask to file a complaint. PO Aguilar did not know if any other officers spoke to § 87(2)(b) or if she asked anybody else to file a complaint. PO Aguilar did not know if any officer processed a complaint for her.

**Subject Officer: Sgt. VITALIY ZELIKOV**

- *Sgt. Zelikov is a § 87(2)(b)-old white male, 6' tall, 190 lbs., with brown hair and green eyes.*
- *Sgt. Zelikov was the patrol supervisor for the 77<sup>th</sup> Precinct from 2:50 p.m. to 11:47 p.m. on July 3, 2011 in a marked patrol car with PO Kinckiner.*

**Memo Book**

Sgt. Zelikov arrived at § 87(2)(b) and there was one under to the stationhouse. Sgt. Zelikov did not have a time noted in the memo book but the previous entry was made at 8:05 p.m. and the next one was made at 9:45 p.m. At 9:45 p.m., he relieved the desk officer (encl. C1-3).

**CCRB Testimony**

On August 18, 2011, Sgt. Zelikov appeared at the CCRB to be interviewed (encl. C4-5). While on patrol, Sgt. Zelikov received a call from PO Aguilar of sector IJ informing him of an arrest for fireworks. Sgt. Zelikov commanded the officers to arrest the individual, wait for him to verify the arrest, and seize the vehicle that the fireworks were inside of.

Sgt. Zelikov arrived on the scene and saw a large crowd. He approximated that there were two dozen people in the crowd. He did see that the individual was under arrest but the officers could not take possession of the vehicle because of the crowd. Other sectors also responded but Sgt. Zelikov did not recall which officers or what sectors responded. While on scene, he asked PO Aguilar and PO Feeley to look in just the trunk of the vehicle because that is where the fireworks were. He did not know if the officers ever put their hands inside the trunk. He did not see the officers go anywhere else in the vehicle other than the trunk. He was sure that the vehicle was briefly searched.

Sgt. Zelikov and the responding officers used verbal commands to control the crowd. They told them to get back on the sidewalk. Sgt. Zelikov never said, "Get the fuck back." He also denied saying "I am going to throw your ass in fucking jail" or threaten to arrest anyone. No profanity was used with any of the individuals and no pushes, chest bumps or physical force was used.

Sgt. Zelikov was shown a photo of § 87(2)(b) and § 87(2)(b). He recognized § 87(2)(b) from the stationhouse later but he did not recognize § 87(2)(b).

After about five minutes of doing crowd control, PO Aguilar and PO Feeley were able to leave the scene with the arrested individual. The crowd dispersed on its own after PO Aguilar and PO Feeley left the scene. Sgt. Zelikov and the other officers left shortly afterwards. Sgt. Zelikov then went to the stationhouse and relieved the desk officer.

While he was at the desk, he saw § 87(2)(b) come into the stationhouse and ask the telephone switchboard operator for a supervisor. The operator brought § 87(2)(b) to Sgt. Zelikov. § 87(2)(b) stated she wanted to file a complaint but she did not want to talk to Sgt. Zelikov. Sgt. Zelikov then got the Integrity Control Officer on duty, Sgt. David Jones, to speak with § 87(2)(b). § 87(2)(b) again refused to speak to Sgt. Jones and left the stationhouse. Sgt. Zelikov noted this interaction in the command log. He did not process any complaint paperwork.

**Witness Officer: PO KATRINA WEEKES**

- *PO Weekes is a § 87(2)(b)-old black female, 5'4" tall, 150 lbs., with black hair and black eyes.*
- *PO Weekes was working in an Impact Auto from 3:00 p.m. to 11:35 p.m. on July 3, 2011 with PO Colon in uniform and in a marked van.*

**Memo Book**

At 9:30 p.m., a request for assistance was called to § 87(2)(b). There was one arrest. At 9:40 p.m., PO Weekes resumed patrol (encl. C17-19).

**CCRB Testimony**

On October 23, 2011, PO Weekes appeared at the CCRB to be interviewed (encl. C20-21) § 87(2)(g)

§ 87(2)(g) PO Weekes got a call for a request for assistance and arrived at the scene at § 87(2)(b) at 9:30 p.m. PO Weekes arrived with PO Jesse Colon and PO Marlenis Roque. Sgt. Zelikov, who was already on scene and driven by PO Fady Azmy, directed the officers to clear the street. PO Weekes followed the command and told individuals to get on the sidewalk and out of the street. PO Weekes never heard Sgt. Zelikov or any officer say "get the fuck back" or "I am going to throw your ass in fucking jail." She also did not see Sgt. Zelikov or any officer push, chest-bump, or use any other type of force against any civilian.

**Witness Officer: PO JESSE COLON**

- *PO Colon is a § 87(2)(b)-old Hispanic male, 5'9" tall, 185 lbs., with black hair and brown eyes.*
- *PO Colon was working in an Impact Auto from 3:00 p.m. to 11:15 p.m. on July 3, 2011 with PO Weekes in uniform and in a marked van.*

**Memo Book**

On July 3, 2011 at 9:40 p.m., PO Colon received a call for assistance from sector I at § 87(2)(b). At 9:40 p.m., PO Colon resumed patrol and sector I had one arrest (encl. C22-24).

**CCRB Testimony**

On November 16, 2011, PO Colon appeared at the CCRB to be interviewed (encl. C25-26). § 87(2)(g)

PO Colon observed a large crowd and assisted in dispersing it with the other officers on scene. PO Colon could smell the scent of alcohol and marijuana. He could also hear and see fireworks being fired in the crowd and at officers. PO Colon used his arms to wave the civilians together and out of the street. No one was knocked to the ground or injured.

While dispersing the crowd, PO Colon saw Sgt. Zelikov in pursuit of an unknown individual. PO Colon followed the pursuit and made sure Sgt. Zelikov was safe when he caught the individual he was chasing. PO Colon was shown photos of § 87(2)(b) and § 87(2)(b) but did not recognize them. He also did not see Sgt. Zelikov push § 87(2)(b) or § 87(2)(b) or chest bump them or anyone else. He also did not hear Sgt. Zelikov say “get the fuck on the sidewalk” or threaten to throw their “ass” in jail. He did not hear any profanity from officers on scene.

**Witness Officer: PO FADY AZMY**

- PO Azmy is a § 87(2)(b)-old white male, 5’6” tall, 168 lbs. with brown hair and brown eyes.
- PO Azmy was working as the Impact Sergeant’s Operator from 3:00 p.m. to 11:35 p.m. on July 3, 2011 in uniform and in a marked vehicle.

**Memo Book**

PO Azmy did not have any memo book entries regarding this incident (encl. C27-28).

**CCRB Testimony**

On November 1, 2011, PO Azmy appeared at the CCRB to be interviewed (encl. C29-30) His testimony was consistent with that of the above officers.

**Witness Officer: PO MOHAMMED MANIK**

- PO Manik is a § 87(2)(b)-old Asian male, 5’6” tall, 160 lbs., with black hair and brown eyes.
- PO Manik was working in an Impact Auto from 3:00 p.m. to 11:35 p.m. on July 3, 2011 with PO Agro in uniform in a marked van.

**Memo Book**

PO Manik did not have any entries in his memo book regarding this incident (encl. C21-34).

**CCRB Testimony**

On November 1, 2011, PO Manik appeared at the CCRB to be interviewed (encl. C35-36) PO Manik did not recall the incident but did state he may have been on scene.

**Witness Officer: PO KEVIN AGRO**

- PO Agro is a § 87(2)(b)-old white male, 6’1” tall, 210 lbs. with black hair and brown eyes.
- PO Agro was working in an Impact Auto from 3:00 p.m. to 11:35 p.m. on July 3, 2011 with PO Manik in uniform in a marked van.

**Memo Book**

PO Agro did not have any memo book entries regarding this incident (encl. C37).

**CCRB Testimony**

On November 1, 2011, PO Agro appeared at the CCRB to be interviewed (encl. C38-39). PO Agro did not recall the incident at § 87(2)(b) and did not know what had occurred.



**Witness Officer: Sgt. ERIC ALEXIS**

- *Sgt. Alexis is a § 87(2)(b)-old black male, 6'2" tall, 178 lbs., with black hair and brown eyes.*
- *Sgt. Alexis was an Impact sergeant from 2:50 p.m. to 11:47 p.m. on July 3, 2011 with PO Azmy in uniform and in a marked vehicle*

**Memo Book**

Sgt. Alexis did not have any memo book entries regarding this incident (encl. C40-42).

**CCRB Testimony**

On November 18, 2011, Sgt. Eric Alexis appeared at the CCRB to be interviewed (encl. C43-44). Sgt. Alexis did not recall the incident at § 87(2)(b)

**Witness Officer: Sgt. DAVID JONES**

- *Sgt. Jones is a § 87(2)(b)-old black male, 5'10" tall, 210 lbs., with black hair and brown eyes.*
- *Sgt. Jones was a conditions sergeant as well as the ICO from 5:12 p.m. on July 3, 2011 to 2:15 a.m. on July 4, 2011, in uniform in a marked vehicle with PO Clarke, PO Allard, PO Murphy, PO Martinez, and PO Sanders.*

**Memo Book**

Between 6:00 p.m. and 10:00 p.m., Sgt. Jones was on patrol for a fireworks detail. Between 10:00 p.m. and 10:50 p.m., Sgt. Jones was in the stationhouse. He resumed patrol at 10:50 a.m. (encl. C6-8).

**CCRB Testimony**

On September 21, 2011, Sgt. David Jones appeared at the CCRB to be interviewed (encl. C9-10). Sgt. Jones and his team did not respond to § 87(2)(b). At the stationhouse, Sgt. Jones was in his office. When he came out of his office, he saw § 87(2)(b) at the desk and asked her what she needed. § 87(2)(b) refused to answer Sgt. Jones' questions or cooperate with him. § 87(2)(b) did not provide any details as to why she was there. She then left the stationhouse. Sgt. Jones asked the desk sergeant to make a notation in the command log about § 87(2)(b) to document her presence and her refusal to comply so he would avoid having a CCRB complaint. § 87(2)(b) never asked him to file a complaint for her. He also never heard her ask any other officer to file a complaint. He did not know which officers she spoke to before him but he believed she became aggravated from her previous conversations.

**Witness Officer: PO RAYMOND KINCKINER**

- *PO Kinckiner is a § 87(2)(b)-old white male, 5'9" tall, 170 lbs., with brown/white hair and blue eyes.*
- *PO Kinckiner was the patrol Sergeant's operator from 3:00 p.m. to 11:35 p.m. on July 3, 2011 with Sgt. Zelikov in uniform and in a marked vehicle.*

**Memo Book**

At 9:00 p.m., PO Kinckiner went to the stationhouse for meal (encl. C45-46).

**CCRB Statement**

On August 23, 2011, PO Raymond Kinckiner appeared at the CCRB to be interviewed (encl. C47-48). PO Kinckiner was not present during the incident at § 87(2)(b) and did not see § 87(2)(b) at the stationhouse.

### **Officers Not Interviewed**

PO Christopher Feely was not interviewed § 87(2)(g)

PO Marlenis Roque was not interviewed § 87(2)(g)

Sgt. Jones and his team did not respond to § 87(2)(b)

§ 87(2)(g)

### **NYPD Document(s)**

#### **SPRINT Report and Communications CD**

The SPRINT report and Communications recording indicate Sector I called for assistance and multiple units, including a sergeant responded to the scene. Additionally, a 911 call was placed by an anonymous individual living on the same block as the incident about noise from fireworks (encl. D1-3).

#### **Complaint Report**

§ 87(2)(b) was arrested for § 87(2)(a) 160.50 because he was observed lighting fireworks near a small child. The report was filled out by PO Aguilar and lists Sgt. Zelikov as the supervisor on scene (encl. D4-5).

#### **Command Log**

There is a notation at 10:35 p.m. made by Sgt. Zelikov that a black female, identified as § 87(2)(b) via investigation, entered the stationhouse to file a complaint against an officer. When she was approached by Sgt. Jones, she refused to provide details regarding the complaint and left the stationhouse (encl. D6-7).

### **Summons/Arrest for Incident and Disposition**

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

### **Status of Civil Proceedings**

- § 87(2)(b) and § 87(2)(b) have not filed a Notice of Claim with the City of New York as of November 18, 2011 with regard to the incident (encl. E1).

### **Civilian(s) Criminal History**

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

### **Civilian(s) CCRB History**

- This is the first CCRB complaint filed by § 87(2)(b) and § 87(2)(b) (encl. A3-4).

### **Subject Officer(s) CCRB History**

- Sgt. Zelikov has been a member of the service for six years and there are no substantiated CCRB allegations against him (encl. A1-2).

## **Conclusion**

### **Identification of Subject Officer(s)**

§ 87(2)(b) and § 87(2)(b) identified Sgt. Zelikov by name and provided descriptions that matched that of Sgt. Zelikov. § 87(2)(b) also provided Sgt. Zelikov's badge number. Additionally, Sgt. Zelikov admitted to being present at the incident. Sgt. Zelikov also admitted to speaking with § 87(2)(b) at the stationhouse and made a command log entry regarding it. He also noted that Sgt. Jones also spoke to § 87(2)(b) at the stationhouse.

### **Allegations Not Pled**

§ 87(2)(g)  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

## **Investigative Findings and Recommendations**

### **Allegation A – Discourtesy: Sgt. Vitaliy Zelikov spoke obscenely and/or rudely to § 87(2)(b)**

§ 87(2)(b) and § 87(2)(b) § 87(2)(b) alleged that Sgt. Zelikov told her, § 87(2)(b) and § 87(2)(b) to “get the fuck back.” § 87(2)(b) heard the officers say “get away from the car” and “get out of the street” but made no mention of profanity. All the officers interviewed denied the use of profanity while on scene.

An officer may use an expletive in a verbal command when addressing a crowd to gain cooperation in lieu of using physical force to move them. PD v. White OATH Index 78667/03 (encl. 1-4).

§ 87(2)(b) was the only civilian that alleged the use of obscene language. § 87(2)(b) who is close with the § 87(2)(b) family and was in the same vicinity of § 87(2)(b) at the time of incident stated that officers did give verbal commands to disperse but did not allege any discourteous language. Additionally, Sgt. Zelikov and the other officers interviewed also stated that discourteous language was not used.

§ 87(2)(g)  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**Allegation B – Abuse of Authority: Sgt. Vitaliy Zelikov threatened to arrest § 87(2)(b)**

§ 87(2)(b) alleged that Sgt. Zelikov said he would throw her “ass” in “fucking jail.”

§ 87(2)(g)

§ 87(2)(b) was the only individual to allege a threat of arrest. § 87(2)(b) who is close with the § 87(2)(b) family, and was in the vicinity of § 87(2)(b) at the time the alleged threat of arrest occurred, did not repeat any of these allegations. Additionally, the officers’ testimony was similar to that provided by § 87(2)(b)

§ 87(2)(g)

**Allegation C – Force: Sgt. Vitaliy Zelikov used physical force against § 87(2)(b)**

§ 87(2)(b) and § 87(2)(b)

§ 87(2)(b) and § 87(2)(b) allege that Sgt. Zelikov pushed them and § 87(2)(b) Sgt. Zelikov denied using any physical force against anyone on scene. All the officers interviewed denied seeing Sgt. Zelikov use physical force.

Officers are to use the minimum necessary force to complete a lawful act. Patrol Guide Procedure 203-11 (encl. 5-6).

§ 87(2)(g)

Multiple officers testified to the fact that the crowd was in the street and that they were given verbal commands to disperse. § 87(2)(b) alleged that during this dispersal, she and § 87(2)(b) were pushed with one hand by Sgt. Zelikov and § 87(2)(b) was pushed with two hands by Sgt. Zelikov which caused him to fall to the ground. § 87(2)(b) alleged that he was pushed with two hands § 87(2)(g) and he did not fall to the ground. He also alleged that § 87(2)(b) was chest-bumped by Sgt. Zelikov. Sgt. Zelikov denied using force on these three individuals but PO Colon did state that minimal force was used to disperse the crowd.

§ 87(2)(g)

**Allegation D – Abuse of Authority: Officers did not process § 87(2)(b) s complaint regarding an officer.**

§ 87(2)(b) claimed that she spoke to numerous officers in the 77<sup>th</sup> Precinct Stationhouse on July 3, 2011 about filing a complaint against an officer. None of the officers she spoke to helped her file a complaint.

Both Sgt. Zelikov and Sgt. Jones admitted to speaking with § 87(2)(b) at the stationhouse but claim she was uncooperative with them and did not give them the information needed to file a complaint. Additionally, Sgt. Jones asked Sgt. Zelikov to make a notation in the command log regarding the incident to document that § 87(2)(b) was at the stationhouse to file a complaint but did not cooperate with the officers. PO Aguilar also admitted to interacting with

§ 87(2)(b) and has it documented in his memo book that she signed for § 87(2)(b) property. PO Aguilar maintains that § 87(2)(b) never asked him to file a complaint.

§ 87(2)(g)  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

---

Team: \_\_\_\_\_

Investigator: \_\_\_\_\_ :  
Signature Print Date

Supervisor: \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_  
Title/Signature Print Date